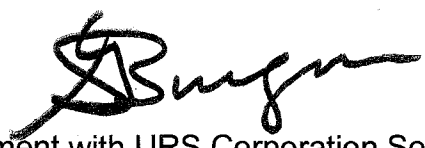


# Memorandum



**Date:** January 20, 2005

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager 

**Subject:** Settlement Agreement with URS Corporation Southern  
MIA New Northside Runway, Project No. B046B

Agenda Item No. 7(A)(1)(E)

The attached Settlement Agreement between URS Corporation Southern (f.k.a. URS Greiner, Inc., Southern), and Miami-Dade County has been prepared by Dade Aviation Consultants (DAC) with the concurrence of the Miami-Dade Aviation Department (MDAD) and is recommended for approval by the Board. It is further recommended that the Board authorize the County Manager to make all the required payments and to execute and deliver and receive all necessary documents, including releases and assignments, in order to finalize this settlement.

**MODIFICATION NO.:** NA

**PROJECT:** MIA New Northside Runway

**PROJECT NO.:** B046B

**PROJECT LOCATION:** Miami International Airport (MIA)

**PROJECT DESCRIPTION:** The New Northside Runway project included the construction of an 8,600 feet runway and parallel taxiway and connectors. It also included utilities, drainage, navigational aides (Nav aids), aircraft aprons, and modifications to NW 67<sup>th</sup> Avenue, access gates, interior service road, vehicular parking, signalization, and work at the Midfield Utilities Vault. Work on this project affected the entire north side of MIA. The New Runway Project was completed in September 2003 and open and operational.

**FIRM:** URS Corporation Southern (f.k.a. URS Greiner, Inc., Southern)

**LOCATION OF FIRM:** Miami-Dade County, Florida

**COMPANY PRINCIPAL(S):** Carlos Garcia

**GENDER, ETHNICITY AND OWNERSHIP BREAKDOWN:** Male, Hispanic

**HOW LONG IN BUSINESS:** Ninety-four years

**PREVIOUS AGREEMENTS  
WITH COUNTY:** Four (4) totaling \$21,180,214

**ORIGINAL AGREEMENT  
AMOUNT:** \$8,965,688

**AMOUNT OF  
RECOMMENDED  
SETTLEMENT:** \$495,000

**JUSTIFICATION:** URS Southern Corporation (URS) (then known as URS Greiner, Inc., Southern) was the architect/engineer (A/E) of record for the New Northside Runway project. The project was funded 75% by the Federal Aviation Administration (FAA) based on a Letter of Intent (LOI) from the FAA dated April 3, 2000. The LOI earmarked \$101,040,000 for the project. When the bids came in significantly lower than the estimate upon which the LOI was based, FAA funding for the project was reduced to \$79,787,657 based on the 75% participation rate. The County stood to lose the remaining \$21,252,343 of the LOI.

Upon consultation with the FAA, the FAA agreed to allow the use of the remaining funds (\$21,252,343) if MDAD could develop projects that could be associated with the runway that could also meet FAA funding eligibility criteria. MDAD did and authorized URS to design these additional projects as Additional Services under the terms of their Professional Services Agreement (PSA). Performance of these services, along with necessary services relating to unforeseen or differing site conditions, caused the funds allocated for Additional Services to be depleted before the project was completed.

In such a situation, the PSA would normally be amended to add necessary funding. However, the competitive process by which URS was selected considered among other things whether the prime consultant's team met the B/H/WBE subconsultant goals for the project. After the contract was awarded, a federal court enjoined the A/E aspects of the B/H/WBE Programs, which have subsequently been declared unconstitutional. The federal court injunction precluded the ability to amend the PSA to increase the contract amount. This meant the County had to procure

another A/E to perform any future additional-type services pertaining to the continued encountering of unforeseen conditions during the remaining construction of the MIA New Northside Runway. Ultimately, the County awarded an agreement for supplemental design services for the Runway project pursuant to a new solicitation. That Agreement was approved on October 28, 2002, pursuant to the provisions of the County's Expedite Ordinance No. 00-104 in the amount of \$1,316,250.

However, while the County went through the procurement process for another A/E, URS continued performing additional services types of work so as not to delay the contractor, who was eligible to collect \$15,789 per day in liquidated overhead for excusable compensable delays.

Subsequent to the procurement of and transition to the newly acquired A/E, URS filed a claim for \$781,134 as the value of its services. These services were necessary and were incidental to the original scope of work as awarded to the Consultant.

MDAD has determined that URS is entitled to additional compensation for performing the additional services during this period. MDAD and URS have negotiated the amount of \$495,000 as being owed to URS for these transitional services.

**USING AGENCY:** Miami-Dade Aviation Department

**FUNDING SOURCE:** Airport Revenue Bonds

**DBD REVIEW** Yes

**FISCAL IMPACT**

The County and URS have reached a negotiated amount of \$495,000 as being owed to URS for these transitional services. Settlement of this claim is recommended as being in the best interest of the County and will save the County the cost of any potential legal action on the part of URS. Funding for this settlement is available from the project budget.

  
Assistant County Manager

  
County Attorney  
Approved for Legal Sufficiency



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** January 20, 2005

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No. 7(A)(1)(E)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(A)(1)(E)

01-20-05

**RESOLUTION NO.** \_\_\_\_\_

**RESOLUTION APPROVING SETTLEMENT AGREEMENT  
WITH URS CORPORATION SOUTHERN, ON MIA NEW  
NORTHSIDE RUNWAY PROJECT NO. B046B AT MIAMI  
INTERNATIONAL AIRPORT; AUTHORIZING THE COUNTY  
MANAGER OR HIS DESIGNEE TO EXECUTE AND  
RECEIVE ALL NECESSARY DOCUMENTS, INCLUDING  
RELEASES AND ASSIGNMENTS**

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board authorizes the County Manager or his designee to execute the settlement agreement with URS Corporation Southern, on MIA New Northside Runway, Project No. B046B, in the amount of \$495,000, in substantially the form attached hereto and authorizes the County Manager or his designee to make all the required payments and to execute and deliver and receive all necessary documents, including releases and assignments, in order to finalize this settlement.

Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Dr. Barbara Carey-Shuler
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

DBM



**DADE AVIATION CONSULTANTS**  
GENERAL CONSULTANT TO THE MIAMI-DADE AVIATION DEPARTMENT

A JOINT VENTURE OF  
BECHTEL INFRASTRUCTURE CORPORATION  
DMJM AVIATION, INC.  
SPILLIS CANDELA & PARTNERS, INC.  
THE BUGDAL GROUP  
POINCIANA DEVELOPMENT GROUP, INC.  
MAURICE GRAY ASSOCIATES, INC.  
SHARPTON, BRUNSON & COMPANY  
TBI AIRPORT MANAGEMENT, INC.

AN EQUAL OPPORTUNITY EMPLOYER

November 15, 2004

Dr. Carlos Bonzon, Ph. D., P.E.  
Interim Aviation Director  
Miami-Dade Aviation Department  
P.O. Box 592075  
Miami, Florida 33159-2075

RECEIVED  
NOV 16 2004  
DIRECTOR

Re: MIA New Northside Runway  
URS Settlement Agreement

Dear Dr. Bonzon:

This letter serves to attest that URS, the A/E of record for the New Northside Runway Project, performed certain Additional Services during the construction of the above referenced project without being compensated. During the design and early stages of construction all funds allocated in their Professional Service Agreement for Additional Services were exhausted as a result of MDAD requested changes in the project scope to fully utilize all funds allocated by the FAA.

In such a situation, the PSA would normally be amended to add necessary funding. However, the competitive process by which URS was selected considered among other things whether the prime consultant's team met the B/H/WBE subconsultant goals for the Project. After the contract was awarded, a federal court enjoined the A/E aspects of the B/H/WBE Programs, which have subsequently been declared unconstitutional. The federal court injunction precluded the ability to amend the PSA to increase the contract amount. This meant the County had to procure another A/E to perform any future additional-type services pertaining to the continued encountering of unforeseen conditions during the remaining construction of the MIA New Northside Runway. Ultimately, the County awarded an agreement for supplemental design services for the Runway project pursuant to a new solicitation. That Agreement was approved on October 28, 2002.

During this solicitation period URS continued to serve the Department by providing Additional Services addressing unforeseen and unforeseeable field conditions. This work was performed with our knowledge, consent and approval, as the alternative of not performing the additional services would have resulted in an owner delay to the contractor that could have resulted in an estimated \$4.5m in liquidated indirect costs. Therefore we consider that the referenced Additional Services were essential to the proper prosecution of the work.

7

Dr. Carlos Bonzon, Ph. D., P.E.

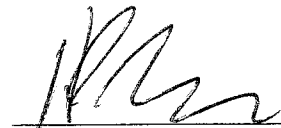
November 15, 2004

Page: 2

If you have any questions, please do not hesitate to contact me.

Very truly yours,

**DADE AVIATION CONSULTANTS**



Preston Ross  
Area Manager



Miriam P. Gerov  
Project Manager

MPG/er:CB - URS settlement

cc: Document Control





**SETTLEMENT AGREEMENT TO THE CLAIM BY**  
**URS CORPORATION SOUTHERN /f.k.a./ URS GREINER, Inc., SOUTHERN**  
**FOR DESIGN AND CONSTRUCTION PHASE SERVICES**  
**FOR THE MIA NEW NORTHSIDE RUNWAY**  
**FOR THE MIAMI-DADE AVIATION DEPARTMENT**

THIS SETTLEMENT AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_, 2004 by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the "County" and URS Corporation Southern, f.k.a. URS Greiner, Inc., Southern, herein referred to as the "Consultant".

**WITNESSETH:**

WHEREAS, by Resolution No. R-410-99, passed and adopted April 27, 1999, the Board of County Commissioners authorized a Professional Services Agreement, hereinafter referred to as the PSA, between the parties hereto for the MIA New Northside Runway at Miami International Airport in the maximum amount of \$8,965,688.00, and

WHEREAS, the County required certain Additional Services pursuant to the terms of the PSA as a result of unforeseen conditions encountered during the MIA New Northside Runway construction; and

WHEREAS, the added scope exhausted the maximum payable for Additional Services; and

WHEREAS, the County was precluded from amending the PSA due to a federal court injunction regarding the application of Black, Hispanic and Women Business Enterprise contract measures to architectural and engineering contracts and which this PSA contained; and so the County proceeded to procure a new professional services agreement to complete the services required for the project, which new professional services agreement was awarded on October 28, 2002, pursuant to the provisions of Ordinance No. 00-104; and

WHEREAS, the Consultant continued performing Additional Services types of work pertaining to the continued encountering of unforeseen conditions during the construction of the MIA New Northside Runway, said work being performed so as not to delay the contractor, who was eligible to collect \$15,789 per day in Liquidated Overhead for excusable compensable delays, while a new consultant was procured to perform such types of Additional Services, such services being necessary and incidental to the performance of the original services authorized, and for which the County did not compensate Consultant; and

WHEREAS, the County has determined that the Consultant is entitled to additional compensation for performing these uncompensated Additional Services during the transition to the new consultant ("transitional services"); and

WHEREAS, the Consultant has made a claim for these uncompensated services, and provided documentation for such services, for which the County staff and the Consultant have negotiated a lump sum fee in the amount of \$495,000 as being owed to the Consultant for these transitional services.

NOW, THEREFORE, in consideration of the premises contained herein, the parties hereto agree as follows:

1. The Consultant and the County hereby agree that the total compensation due the Consultant for performing transitional services, as stated hereinabove, is Four Hundred Ninety-five Thousand Dollars (\$495,000.00).
2. By executing this Settlement Agreement and in consideration of and conditional upon payment to Consultant by the County of the \$495,000, the Consultant releases County, its officers, employees and agents from, and waives and relinquishes, any and all claims, disputes or causes of action it has or may have against the County, its officers, employees and agents for all events arising out of or in connection with the Northside Runway Project. Consultant accepts the \$495,000.00 as full accord and satisfaction of all monies due it under or in connection with the MIA New Northside Runway project, for any and all claims arising from that project.
3. This Settlement Agreement shall become effective as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective and duly authorized officers, as of the day and year first above written.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA  
a political subdivision of the State of Florida

HARVEY RUVIN, CLERK

BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk


\_\_\_\_\_  
County Manager

(MIAMI-DADE COUNTY SEAL)

ATTEST:

URS Corporation Southern

By:  \_\_\_\_\_

  
Vice President  
(CORPORATE SEAL)

Approved for Form and Legal Sufficiency

By: DBM \_\_\_\_\_  
Assistant County Attorney

8 Nov 2004